Single Bench

(3) (1)

IN THE HIGH COURT OF CHHATTISGAR AT BILASPUR

W.P. No. 4065 /2004

PETITIONER :- Dal Singar S/o. Shri Indar Singar aged about 36 years, Ex-Watchman of the Block Wadrafnagar, R/o. Wadrafnagar, P.S. Basantpur, District Surguja (C.G.).

P.R. No. 4056/C/04 Bilaspur
Presented on 21/10/04
dated

VERSUS

RESPONDENTS :-

1. State of Chhattisgarh Through - Secretary, General Administration Dept. D.K.S. Bhavan, Raipur (C.G.).
2. Collector, Surguja (C.G.) Ambikapur (C.G.).
3. Block Development Officer, Block Wadrafnagar District Surguja (C.G.).

21.10.04

PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA.

(62)

HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION NO.4065 OF 2004

Petitioner	:	Dal Singar
	versus	
Respondents	:	State of Chhattisgarh and others

Present : Mr. J.K.Shastri, counsel for the petitioner.
Mr. Sushil Dubey, Government Advocate for respondents No.1 and 2.
Mr. Pankaj Shrivastava, counsel for respondent No.3.

ORDER

(Passed on 7th Day of December, 2006)

The petitioner was appointed as Sweeper temporarily on 25-4-1987 (Annexure P-1). Thereafter, the petitioner was appointed as Watchman on 11-4-1989 (Annexure P-2) on temporary basis at Collector's rate with a condition that his services can be terminated at any time without giving any notice in advance.

2. According to learned counsel appearing for the petitioner, the petitioner was granted regular pay-scale on 21-1-1994. Thereafter, the petitioner was terminated from the service by order dated 31-5-2000 on the ground of the petitioner being daily rated employee. According to learned counsel for the petitioner, the petitioner has been terminated on account of the circular dated 14-2-2000 (Annexure R1-2/3), which is

not applicable in case of the petitioner as the circular provides for a minute scrutiny of each case before termination.

3. Be that as it may, it is admitted position that the initial appointment of the petitioner was temporary in violation of the constitutional scheme of the employment. The appointment of the petitioner was not in accordance with law by inviting applications from all the eligible candidates. As such, the appointment of the petitioner has no legal sanction.

4. It is well settled principle of law as held by the Supreme Court in catena of decisions that an employee, whose appointment does not have a legal sanction, has no right to the post and cannot claim absorption, continuation, regularisation or reinstatement to the service.

5. The Supreme Court, in the case of ***State of M.P. and others*** **vs.** ***Yogesh Chandra Dubey and others***[1], has clearly held that regularisation is not a mode of appointment. If any appointment is made by way of regularisation, the same would be a back door appointment, which does not have any legal sanction.

6. For the reasons aforementioned, the writ petition stands dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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1 (2006) 8 SCC 67